HON'BLE SRI JUSTICE B.PRAKASH RAO
AND
HON'BLE SRI JUSTICE D. APPA RAO

DATE: 13.11.2007

Writ Petition No.20149 of 2007

Between:
Syed Khaja Zaheeruddin and another.

..... PETITIONERS

AND
Hon'ble Special Court established under A.P.
Land grabbing (Prohibition) Act, 1982 rep. By its
Registrar at BRKR Bhavan, Second Floor, Tank Bund road,
Hyderabad and others.

.....RESPONDENTS

HON'BLE SRI JUSTICE B.PRAKASH RAO
AND
HON'BLE SRI JUSTICE D. APPA RAO

Writ Petition No.20149 of 2007

ORDER: (per Sri B. Prakash Rao,J)

Heard Sri K. Satyanarayana Murthy, learned counsel for the petitioner and Sri M.V. Suresh Kumar, learned counsel for the respondents and at their request, the main writ petition itself is taken up for disposal.

The petitioners herein, who are the applicants before the Special Court under the A.P. Land Grabbing (Prohibition) Act, Hyderabad filed this writ petition assailing the orders passed in I.A. No. 273 of 2007 in L.G.C. No.27 of 2007, dated 21.8.2007 whereunder the learned Special Court vacated the interim injunction granted by it on 22.3.2007.

Briefly stated the facts of the case are that the petitioners filed the L.G.C. seeking to declare that the respondents are land grabbers. In that L.G.C., they filed I.A. No. 273 of 2007 under order 29 Rules 1 and 2 read with Section 151 of C.P.C. seeking injunction. Through order dated 22.3.2007, the Special Court directed the respondents to maintain status-quo obtaining as on that day and to desist from altering the nature of the land or making any constructions. After contest, the Special Court having found eventually that the petitioners have not made out any prima facie case and that the respondents are in possession of the petition schedule property and are

making constructions, ultimately taking into consideration the affidavit filed by the respondents whereunder the respondents gave an undertaking not to claim equities in case the petitioners succeed in the main L.G.C., vacated the said order.

Having heard the learned counsel for the parties and having perused the material on record and also having regard to the fact that this writ petition arises out of an interlocutory application, we decline to go into the merits of the matter. However, having regard to the fact that there is a categorical finding in favour of the respondents as to prima facie case, balance of convenience and also with regard to possession of the respondents, the impugned order of the Special court does not warrant any interference. Further, the respondents have also come out with an affidavit whereunder they undertook that they will not claim any equities in the event the petitioners succeed in the main L.G.C.

That apart, in this case there is a serious dispute with regard to the title and possession of the property in question. The same cannot be gone into by this Court under Article 226 of the Constitution of India and they have to be decided by the Special Court in the main L.G.C., after production of evidence by both the parties.

However, during the course of arguments, learned counsel for the petitioners submitted that the petitioners have sought for appointment of a Commissioner for making local inspection and the entire process is still on and going on.

In the circumstances, it would suffice if a direction is issued to the Special Court to dispose of the main L.G.C. itself expeditiously, soon after receipt of the report of the Commissioner.

Accordingly, we dispose of this writ petition with a direction to the Special Court to dispose of the main L.G.C., namely, L.G.C. No. 27 of 2007 as expeditiously as possible, preferably within a period of three months from the date of receipt of the report of the Commissioner. No costs.

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B. PRAKASH RAO,J

Date: 13th November, 2007

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D. APPA RAO,J

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